

City of Rapid City

RAPID CITY, SOUTH DAKOTA 57701

RIGHT-OF-WAY MANAGEMENT POLICY SECTION 2 - PARKWAY STANDARDS & REQUIREMENTS

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*Public Works Department
Engineering Division
300 Sixth Street
605-394-4154*

**SECTION 2
PARKWAY STANDARDS & REQUIREMENTS**

1. PERMIT REQUIRED

It shall be unlawful for any person to: place or construct rock, timber, metal or concrete retaining wall(s); place rock, timber, metal, concrete or similar landscaping structure(s); construct approach gateway or similar structure; construct a fence of any type; construct or install an above ground planter; or construct or install a work of art on or within a public right-of-way in the City. *Such construction is, in effect, the construction of a structure in the right-of-way that adversely affects the usage of the right-of-way.*

It shall be unlawful for any person to: or construct or install a mailbox; excavate for or to plant shrubs or trees; install or construct an under ground or permanent irrigation system; construct a sidewalk; construct a driveway approach without a permit.

It shall be unlawful for any person to excavate to place or construct any under or above ground utility main, service line or facility within a City right-of-way without a permit. *Irrigation systems are considered a private utility with the same requirements as other private utilities. One of the requirements of all private utilities is the utility shall provide an accurate map of the utility.*

All permitted construction shall meet current City, State and Federal codes and standards.

Permits for work within the right-of-way, including the portion of the right-of-way called the Parkway are to be issued by the City. Permits granted shall be upon forms furnished by the City Engineering Division and shall have an authorized signature and date by City staff. See Appendix A for sample forms.

Possessing a City building permit DOES NOT grant permission to work within the public right-of-way. *A building permit is valid for work on the property only, not for work on the neighbor's property or on or in the City Street right-of-way.*

Failure to secure an approved permit prior to start of construction will result in the issuance of a Stop Work Order. Before work can continue, an approved permit must be obtained. Work performed without an approved permit is subject to legal action and fine. *It is the opinion of staff that at a minimum, the cost of a valid permit should be doubled. There needs to be some check for those contractors who seek to gain by ignoring rules.*

Work performed without an approved permit may be required to be removed or repaired by the adjacent property owner at his expense. Alternately, the City may elect to remove or repair such illegal work with City forces and charge the property owner a fee for removal or repair.

2. INSPECTION

A) NOTIFICATION:

The City is to be notified a minimum of 24 hours prior to the start of work and again upon completion of excavation and 24 hours prior to placement of utility facility, concrete, irrigation system piping, or trees or shrubs, unless such requirement is waived on the permit.

The City will furnish an inspector, whose duties shall be to check placement and alignment, to check materials and to see that final installation is in accordance with the specifications of the City. **City inspection shall be provided Monday through Friday between the hours of 7:30 AM to 4:00 PM.**

Failure to properly notify the City may result in issuance of a Stop Work Order. Issuance of a Stop Work Order will nullify and invalidate the existing permit. Before work can continue, an approved permit must be obtained.

Work performed without proper notification is subject to removal to the extent necessary to determine the work meets all current City specifications and standards. Such removal shall be at the cost of the Petitioner.

Work performed improperly, with or without proper notification, may be issued a Stop Work Order and is subject to removal at the cost of the Petitioner. Improperly performed work shall include any work performed that does not meet current City specifications and standards and/or any special requirement of the permit. *Alternately, work performed in direct conflict to an approved permit, or failing to meet the terms of the permit, express or implied, shall be corrected at no expense to the City and may be issued a Stop Work Order. Again, a new permit should cost double so a contractor does not gain by ignoring the rules..*

B) FEES:

Fees for working in the Right-of-way shall include costs of issuance of the permit and the costs for two inspection visits to the site. Such fees shall be at the expense of the Petitioner and shall be paid at the time of application. Additional inspection visits necessitated by improper or insufficient work at the time of the scheduled visit or by issuance of a stop work order may result in additional charges to the Petitioner. *Currently, such fee rates are under study by the City and no fees are currently being charged until the rates are established.*

3. GENERAL REQUIREMENTS

All work within the Right-of-way and Parkway shall be in compliance with the following conditions:

A) PLANTINGS:

1. SAFETY (CLEAR) ZONE:

No tree nor shrub shall be planted where there is less than current desirable **clear zone** separation between the back of curb and the projected near edge of the tree trunk or shrub when mature. See AASHTO "A Policy on Geometric Design of Highways and Streets, 1994 Edition, (the "Green Book") and AASHTO Road Side Design Guide. *(currently 3*

feet (1 m) desirable, 1.5 feet (0.5m) minimum at normal City posted traffic speeds). Such clear zone is a nationally recognized and established area for safety of traveling motorists and pedestrians. Such an area allows an out of control vehicle some recovery room to get back onto the roadway prior to encountering a dangerous solid object.

No tree or shrub shall be planted in Parkway where the distance from the nearest edge of sidewalk to back of curb, in the case of property line sidewalk, or distance from the nearest edge of sidewalk to the property line, in the case of curbside sidewalk, is less than **8 feet** (2.4m). *Such distance allows pedestrian traffic room to utilize the sidewalk and to allow adequate root growth and limit displacement and/or damage the public sidewalk that would create a dangerous sidewalk condition.*

2) SIGHT OBSTRUCTIONS:

No tree or shrub shall be planted or allowed to grow so line of sight of any driver traveling the roadway is obscured or hindered. (See Section I, Table II, **Minimum Sight Distance**). This includes appropriate intersection and driveway sight distance (currently 70 foot (22m) and 25 foot (7.6m) sight triangles). *See Code sections applicable.* Additionally, no tree or shrub shall be planted or allowed to grow so vehicle operator or pedestrian vision of any traffic sign or signal is obscured or hindered or where minimum overhang clearance is not met. *(Current AASHTO standards)*

Any tree, shrub or landscaping that is determined by the City to obscure the vision or path of a vehicle traveling on the street or alley shall be trimmed or removed at the cost of the abutting property owner. If, upon receiving proper notification, the abutting property owner fails to remove or trim the trees within a suitable time limit, the City will cause the trees to be trimmed or removed and charge the landowner a fee for the cost of trimming or removal. *Such fee can be up to one and one half times the actual cost of removal according to City Code.*

3) UTILITY CLEARANCE:

No tree or shrub shall be planted within **5 feet** (1.5m) of any utility facility, underground or overhead. Large overhead or deep underground utility facilities may require additional clearance or consideration regarding type of tree planted. *Such spacing is intended to prevent damage to the utility, either through initial excavation or through future growth. Such spacing allows the utility to repair or replace in a cost-effective manner.*

4) NOXIOUS PLANTS:

No plant deemed **noxious** or unacceptable by the City shall be planted within the Right-of-way. *The City Parks Division publishes a list of recommended trees and shrubs. Noxious plants are defined by Pennington County Code.*

5) IMPROPER PLANTING:

The abutting property owner at his cost shall remove trees or shrubs placed or planted

without a permit or contrary to Current City Standards. If, upon receiving proper notification, the abutting property owner fails to remove the trees or shrubs within a suitable time limit, the City will cause the trees or shrubs to be removed and charge the landowner a fee for removal. *Such shall be handled similarly to other structures in the Right-of-way on a similar priority as masonry mailboxes.*

6) DEAD, DISEASED OR INFECTED PLANTS:

Dead, the abutting property owner at his cost shall remove diseased or infected trees and plant material. If, upon receiving proper notification, the abutting property owner fails to remove the dead, diseased or infected trees within a suitable time limit, the City will remove the trees and charge the landowner a fee for removal. *Code allows the City to charge up to one and one half times the cost of the removal.*

7) SIDEWALK AND STREET OVERHANG CLEARANCE:

The abutting property owner at his cost shall trim trees and plant material that do not meet the minimum street or sidewalk overhang clearance. *See Section 12.40.120 of the Code for overhang clearance. Minimum overhang clearance for the street is currently eleven feet. Minimum overhang clearance for the sidewalk is currently seven feet.* If, upon receiving proper notification, the abutting property owner fails to trim the overhanging tree within a suitable time limit, the City will trim the trees and charge the landowner a fee for removal. *Again, Code allows the City to charge up to one and one half times the cost of the removal.*

B) IRRIGATION SYSTEMS:

The abutting property owner within the parkway may install permanent irrigation systems for the purposes of maintaining the grass or lawn areas and such trees and shrubs as are permitted to be planted.

1) CONSTRUCTION AND MAINTENANCE COST RESPONSIBILITY

It will be the responsibility of the adjacent property owner to install and maintain such systems at his own cost. See 5. Guidelines For Reconstruction.

2) WATER ON THE STREET

Permanent irrigation systems shall be constructed so that the irrigation water is directed onto the vegetated parkway and not onto the street or sidewalk. No underground irrigation mains shall be constructed parallel to underground utilities facilities within **5 feet** (1.5m) of the utility. *Such irrigation systems located in the street right-of-way are considered a private utility much the same as any other private utility located on or in City land.*

C) **STRUCTURES:**

1) SAFETY (CLEAR) ZONE:

No sign, utility pole, box, or other such above ground structure shall be installed where there is less than current desirable **clear zone** separation between the back of curb and the projected near edge of the sign, utility pole, box, or other such structure without express permission from the City. In no case will a separation less than the current minimum be allowed. *(Currently 3 feet (1 m) desirable, 1.5 feet (0.5m) minimum.)* See AASHTO "A Policy on Geometric Design of Highways and Streets, 1994 Edition" (Green Book).

No mailbox or mailbox support structure shall be permitted that does not conform to current U. S. Postal Service standards and/or City Codes. *Current U.S. Postal regulations (and the AASHTO Roadside Design Guide) require mailbox support structures to be of approved, crash tested design and construction.*

All non approved support structures such as masonry, steel, massive wooden or other mailbox support structures that constitute an **endangerment** or obstruction to the public using the right-of-way will not be permitted. *Existing such are considered structures in the right-of-way and will be addressed according to a priority based upon the street classification. Such structures currently located on or in arterial streets will be required to be removed and/or replaced with approved support structures first, followed by those in collector streets, then subcollectors, residential and cul-de-sacs. Owners of such structures will receive a letter notice of violation and will be granted an appropriate time to remove and replace such structures.*

No fence or other structure shall be constructed within the Right-of-way.

D) **UTILITY CORRIDORS:**

Utility mains, services and facilities shall be located within the **corridors allotted** for such utility. See Appendix B, Standard Details for the various street sections illustrating the utility corridors. Undue wandering or deviation from or within the allotted corridor or permitted alignment will not be allowed. Utilities that deviate from the allotted or permitted corridor shall be responsible for immediate removal and replacement of their utility should a conflict ever arise. *Utility owners are required to maintain an accurate map of their facilities by Code. In reality, most utilities do not have good, accurate maps.*

- G) The person (Contractor) doing the construction or alteration shall **maintain the premises in a safe manner**. Adequate barricades, signing and lighting in conformance with the City's Standard Specifications shall be provided at his own expense to protect the safety of the public using the adjacent streets and sidewalks. The Contractor shall remove all debris, dirt or other construction materials immediately upon completion of the work and shall hold the City free from any damages incurred by his operation.

Issuance of a Permit to work in the right-of-way does not infer any liability for the Contractor's work.

Failure to meet any of these general requirements may result in issuance of a stop work order, legal action and/or fine.

4. DEVIATION FROM REGULATIONS

Permission to deviate from the requirements and regulations of these ordinances may be granted by vote of the Rapid City Common Council only where unusual conditions or strict adherence to said ordinance would cause undue and extreme hardship. *Careful consideration as to what shall constitute undue or extreme hardship should be given by Council.*

5. GUIDELINES FOR RECONSTRUCTION

Reconstruction of existing streets, alleys, and sidewalks shall conform to the City of Rapid City Street Design Criteria Manual. Existing utilities, trees and shrubs, irrigation systems, and landscaping shall be dealt with as follows:

- A) Existing privately owned utilities mains and services to be disturbed by the proposed construction or reconstruction shall be reconstructed by the owner at his costs and shall meet current regulations. Construction and reconstruction projects will require coordination with the respective owners of the various utilities to enable a timely and orderly sequence of construction without excessive delays and costs. Such coordination shall be the responsibility of the person or agency proposing the construction.
- B) Existing live trees and landscaping in the parkway, that must be removed as a result of the proposed construction, will be.
- C) Irrigation systems in the parkway, that must be removed or disturbed during construction or reconstruction, will be removed and salvaged to the respective landowner at the cost of the respective person or agency proposing the construction, except as otherwise noted herein. Remaining system feeders and mains shall be capped at the edge of the work limits. It shall be the responsibility of the agency proposing the construction to determine the limit of removal necessary prior to start of construction and so notify the abutting property owner.

Portions of such systems removed by construction shall be salvaged, in so far as practicable, to the Owner. The City will **not** supply additional sprinkler heads, piping or other items for those instances where additional irrigation may be required. Replacement or reconstruction of the irrigation system, after completion of construction, shall be the responsibility of the abutting property owner and will require a valid permit to do so. *Code requires adjacent landowners to maintain the area outside of the roadway/traveled way. Most property owners consider irrigation systems placed on or in City Right-of-way to be the property of the abutting landowner. This is a point that should be clarified, perhaps in Code.*

D) All trees, shrubs, and landscaping located within 1 1/2 feet (0.5m) of the back of the proposed or existing curb (*constitute a hazard to traffic and*) shall be removed. This is the minimum lateral clear zone width currently deemed necessary by AASHTO to protect the traveling public using the street or alley. *Such will be addressed in the same manner and priority as similar structures in the right-of-way. See 3. C) STRUCTURES.*

E) All trees and shrubs, not scheduled for removal, whose root or branch system is weakened by excavation or construction to the point of creating a temporary instability shall be supported for the duration of the instability or removed. Responsibility for providing such support shall be that of the person or agency proposing or performing the construction. Trees located further than 1 1/2 feet (0.5m) from the back of curb whose root system will be damaged or weakened by construction excavation to the point of fatally injuring the tree or of creating a permanently unstable tree, thereby causing a danger to the public using the Right-of-way, shall be removed. The City shall make such determinations.

F) Trees removed in the course of a City project shall be replaced in accordance with the current City tree replacement policy. Trees removed in the course of a private utility project should be (*but are not required to be*) replaced in accordance with the City tree replacement policy and will require a permit. Trees in the Right-of-way removed by the abutting property owner will require a permit.

G) All trees and shrubs removed shall be removed to a level below the ground line (including the stump). The resulting excavation shall be backfilled with suitable soil to the existing or proposed ground line and seeded, sodded or paved as required by the plans and/or permit.

6. SIDEWALK REPAIR & REPLACEMENT

The adjacent property owner is responsible for the maintenance and repair of sidewalks in the Right-of-way abutting his property, in accordance with Rapid City Code Chapter 12.16 and SD Compiled Laws, 1967, Chapter 9-46. *Badly deteriorated or spalled sidewalks or sidewalks with cracks, holes, projections or depressions are potential hazards.*

For purposes of this policy, sidewalks with cracks, projections or depressions larger than 3/4 inch (190 millimeters) are considered candidates for replacement. Sidewalks with depressions that collect water/ice in the winter are also hazards and shall be replaced or reconstructed.

Upon proper notification, the City will require all such repairs to be made. The City may elect to notify the adjacent property owner to make the necessary repairs or may elect to cause the repairs to be made and charge the property owner a fee. *Again, Code allows the City to charge up to one and one half times the cost of the repair.*